

Bill No. SB's 528, 530 & 858

Barcode 852080

583-1775-06

Proposed Committee Substitute by the Committee on Domestic Security

1                                   A bill to be entitled

2           An act relating to emergency management;

3           creating s. 526.143, F.S.; requiring motor fuel

4           terminal facilities, wholesalers, new or

5           substantially renovated motor fuel retail

6           outlets, and other motor fuel retail outlets

7           meeting specified criteria for size and

8           location to be capable of operating with

9           alternate generated power; providing

10          requirements for the installation of such

11          equipment; requiring that such businesses

12          maintain documentation of compliance; providing

13          exemptions; creating the Florida Disaster Motor

14          Fuel Supplier Program within the Department of

15          Community Affairs; providing for motor fuel

16          retail outlets to participate in a network of

17          emergency responders; prescribing duties of

18          county emergency management agencies and the

19          Division of Emergency Management; prescribing

20          requirements to participate in the program;

21          providing for security at participating

22          outlets; exempting participating outlets from

23          curfew requirements; providing a state tax

24          credit for equipment and installation costs to

25          motor fuel retail outlets participating in the

26          program; preempting regulation of alternate

27          power sources at motor fuel terminal

28          facilities, wholesalers, and motor fuel retail

29          outlets to the state; requiring the Division of

30          Emergency Management to complete an inventory

31          of generators owned by the state and local

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governments; authorizing the division to maintain a list of private entities offering generators for sale or lease and make that list available to the public; requiring that the Energy Office of the Department of Environmental Protection review the progress in postdisaster fuel supply distribution and provide a report to the Legislature; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 526.143, Florida Statutes, is created to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.--

(1) By December 31, 2006, each motor fuel terminal facility, as defined in s. 526.303, and each wholesaler, as defined in s. 526.303, which sells motor fuel in this state must be capable of operating its distribution loading racks using an alternate generated power source for a minimum of 72 hours. Pending a postdisaster examination of the equipment by the operator to determine any extenuating damage that would render it unsafe to use, the facility must have such alternate generated power source available for operation no later than 36 hours after a major disaster as defined in s. 252.34. Installation of appropriate wiring, including a transfer switch, shall be performed by a certified electrical contractor. Each business that is subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each

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1 business must keep a written statement attesting to the  
2 periodic testing and ensured operational capacity of the  
3 equipment. The required documents must be made available, upon  
4 request, to the Division of Emergency Management and the  
5 director of the county emergency management agency.

6 (2) Each newly constructed or substantially renovated  
7 motor fuel retail outlet, as defined in s. 526.303, for which  
8 a certificate of occupancy is issued on or after July 1, 2006,  
9 shall be prewired with an appropriate transfer switch, and  
10 capable of operating all fuel pumps, dispensing equipment,  
11 life-safety systems, and payment-acceptance equipment using an  
12 alternate generated power source. As used in this subsection,  
13 the term "substantially renovated" means a renovation that  
14 results in an increase of greater than 50 percent in the  
15 assessed value of the motor fuel retail outlet. Local building  
16 inspectors shall include this equipment and operations check  
17 in the normal inspection process before issuing a certificate  
18 of occupancy. Each retail outlet that is subject to this  
19 subsection must keep a copy of the certificate of occupancy on  
20 site or at its corporate headquarters. In addition, each  
21 retail outlet must keep a written statement attesting to the  
22 periodic testing of and ensured operational capability of the  
23 equipment. The required documents must be made available, upon  
24 request, to the Division of Emergency Management and the  
25 director of the county emergency management agency.

26 (3)(a) No later than December 31, 2006, each motor  
27 fuel retail outlet described in subparagraphs 1., 2., or 3.,  
28 which is located within 1/2 mile proximate to an interstate  
29 highway or state or federally designated evacuation route must  
30 be prewired with an appropriate transfer switch and be capable  
31 of operating all fuel pumps, dispensing equipment, life-safety

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systems, and payment-acceptance equipment using an alternate  
generated power source:

1. A motor fuel retail outlet located in a county  
having a population of 300,000 or more which has 16 or more  
fueling positions.

2. A motor fuel retail outlet located in a county  
having a population of 100,000 or more, but fewer than  
300,000, which has 12 or more fueling positions.

3. A motor fuel retail outlet located in a county  
having a population of fewer than 100,000 which has eight or  
more fueling positions.

(b) Installation of appropriate wiring and transfer  
switch shall be performed by a certified electrical  
contractor. Each retail outlet that is subject to this  
subsection must keep a copy of the documentation of such  
installation on site or at its corporate headquarters. In  
addition, each retail outlet must keep a written statement  
attesting to the periodic testing of and ensured operational  
capacity of the equipment. The required documents must be made  
available, upon request, to the Division of Emergency  
Management and the director of the county emergency management  
agency.

(4)(a) Subsections (2) and (3) apply to any  
self-service, full-service, or combination self-service and  
full-service motor fuel retail outlet regardless of whether  
the retail outlet is located on the grounds of, or is owned  
by, another retail business establishment that does not engage  
in the business of selling motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;

2. A person who operates a fleet of motor vehicles; or

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1       3. A person who sells motor fuel exclusively to a  
2 fleet of motor vehicles.

3       (5) Each corporation that owns or operates more than  
4 10 motor fuel retail outlets within a single county shall  
5 maintain at least one portable generator that is capable of  
6 providing an alternate generated power source as required  
7 under s. 526.143(2) for every 10 retail outlets.

8       Section 2. Florida Disaster Motor Fuel Supplier  
9 Program.--

10       (1) The Florida Disaster Motor Fuel Supplier Program  
11 is created within the Department of Community Affairs. The  
12 Florida Disaster Motor Fuel Supplier Program shall allow any  
13 motor fuel retail outlet doing business in the state to  
14 participate in a network of emergency responders for the  
15 purpose of providing fuel supplies and services to government,  
16 medical, critical infrastructure, and other responders, as  
17 well as to the general public, during a declared disaster, as  
18 described in s. 252.36, Florida Statutes. Participation in the  
19 program requires precertification of preparedness to provide  
20 emergency services by the Division of Emergency Management or  
21 the director of the county emergency management agency.  
22 Requirements for precertification shall be established by the  
23 Division of Emergency Management or by the director of the  
24 county emergency management agency by July 1, 2006.

25       (a) A business that is precertified shall be issued a  
26 State Emergency Response Team logo decal for public display to  
27 alert responders and the public that the business is capable  
28 of assisting in an emergency. In each county having an active  
29 program, the county emergency management agency shall be  
30 primarily responsible for administering the program within  
31 that county. In counties that do not have active programs, the

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1 Division of Emergency Management shall have the authority to  
2 precertify businesses as members of the State Emergency  
3 Response Team and issue appropriate signage.

4 (b) The Division of Emergency Management may adopt  
5 rules to administer this program. The Division of Emergency  
6 Management or the emergency management agency of the county  
7 may charge a fee to cover the actual costs of precertifying a  
8 location, including the cost of performing an inspection,  
9 filing the necessary forms, and producing the logo decal for  
10 public display. Additional charges may not be imposed for  
11 processing the individual documents associated with the  
12 program. Funds collected shall be deposited into the Emergency  
13 Management Preparedness Trust Fund or, if the emergency  
14 management agency of the county is administering the program,  
15 into the appropriate county operating account.

16 (2) At a minimum, each business that is precertified  
17 as a member of the State Emergency Response Team must have the  
18 capability to provide on site fuel-dispensing services to  
19 other members of the State Emergency Response Team within 24  
20 hours after a major disaster has occurred, or demonstrate the  
21 ability to have such service available and agree to make  
22 service available as needed. A business may choose to sell  
23 fuel through a preexisting contract with local, state, or  
24 federal response agencies or may provide point-of-sale service  
25 to such agencies. In addition, a business may choose to sell  
26 to the general public or may be directed to provide such  
27 service by county or state emergency management officials  
28 pursuant to ss. 252.35 and 252.38, Florida Statutes. If  
29 requested, appropriate law enforcement security personnel may  
30 be provided to the participating business for the purpose of  
31 maintaining civil order during operating hours.

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1       (3) Persons who are designated as members of the State  
2 Emergency Response Team and who can produce appropriate  
3 identification, as determined by state or county emergency  
4 management officials, shall be given priority for purchasing  
5 fuel at businesses designated as members of the State  
6 Emergency Response Team. A business may be directed by county  
7 or state emergency management officials to remain open during  
8 a declared curfew in order to provide service for emergency  
9 personnel. Under such direction, the business is not in  
10 violation of the curfew and may not be penalized for such  
11 operation and the emergency personnel are not in violation of  
12 the curfew. A person traveling during a curfew must be able to  
13 produce valid official documentation of his or her position  
14 with the State Emergency Response Team or the local emergency  
15 management agency. Such documentation may include, but need  
16 not be limited to, current SERT identification badge, current  
17 law enforcement or other response agency identification or  
18 shield, current health care employee identification card, or  
19 current government services identification card indicating a  
20 critical services position.

21       (4) A business that is designated as a member of the  
22 State Emergency Response Team may request priority in  
23 receiving a resupply of fuel in order to continue service to  
24 emergency responders. Such request is not binding, but shall  
25 be considered by emergency management officials in determining  
26 appropriate response actions.

27       (5) A motor fuel retail outlet that chooses to  
28 participate in the Florida Disaster Motor Fuel Supplier  
29 Program may receive a state tax credit of up to 25 percent of  
30 the value of a purchase of equipment and installation required  
31 to meet certification requirements established by the Division

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of Emergency Management or by the director of the county  
emergency management agency. The total tax credit for a single  
certified location may not exceed \$15,000. The Department of  
Revenue may issue the credit with prior approval with the  
facility's payment of taxes on motor fuel sales or corporate  
taxes which shall be predetermined by the department and the  
facility owner.

Section 3. Regulation of alternate power sources at  
motor fuel outlets and other facilities preempted to the  
state.--Notwithstanding any other law or local ordinance and  
for the purpose of ensuring an appropriate emergency  
management response following major disasters in this state,  
the regulation, siting, and placement of alternate power  
source capabilities and equipment at motor fuel terminal  
facilities, wholesalers, and retail sales outlets are  
preempted to the state.

Section 4. (1) By January 1, 2007, the Division of  
Emergency Management shall complete an inventory of generators  
owned by the state and local governments which are capable of  
operating during a major disaster. The inventory must  
identify, at a minimum, the location of each generator, the  
number of generators stored at each specific location, to  
which agency the generators belong, the primary use of the  
generator by the owner agency, and the names, addresses, and  
telephone numbers of persons having the authority to loan the  
stored generators as authorized by the Division of Emergency  
Management during a declared emergency.

(2) The division shall maintain an inventory list of  
generators owned by the state and local governments. In  
addition, the division may keep a list of private entities,  
along with appropriate contact information, which offer



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1 generators for sale or lease. The list of private entities  
2 shall be available to the public for inspection in written and  
3 electronic formats.

4       Section 5. Review of Florida disaster motor fuel  
5 supply distribution.--The Energy Office of the Department of  
6 Environmental Protection shall review situational progress in  
7 postdisaster motor fuel supply distribution and provide a  
8 report to the Legislature by March 1, 2007. The report must  
9 include information concerning statewide compliance with s.  
10 526.143, Florida Statutes, and an identification of all motor  
11 fuel retail outlets that are participating in the Florida  
12 Disaster Motor Fuel Supplier Program.

13       Section 6. If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 invalidity does not affect other provisions or applications of  
16 the act which can be given effect without the invalid  
17 provision or application, and to this end the provisions of  
18 this act are severable.

19       Section 7. This act shall take effect upon becoming a  
20 law.

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